Supreme Court, U.S.
FILED

95 1213 NOV 27 1995

OFFICE OF THE CLERK

NO.

In The

Supreme Court of the United States

October Term, 1995

Chester J. Deloatch, Sr.,
Petitioner Pro Se,

vs.

Muzie Hughes,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

PETITION FOR WRIT OF CERTIORARI

Chester J. Deloatch, Sr.
(Petitioner Pro Se)
P.O. Box 529
Rich Square, N.C. 27869
(919) 539-2147

25 pp

QUESTIONS PRESENTED

1. Can a person have adverse possession if the land owner offers the other person permission to use his land?

2. Can a person have adverse possession if they try to buy the land from the land owner and the land owner refuses to sell to the other person?

3. Can a person have adverse possession if they agreed on the property line in 1962, and thirty + years later come back and claim adverse possession because the land ownership changes and the land owner just happen to be married in the same family?

4. Can a person have adverse possession to another person's land and put the land owner under a hardship; cause the person to take money making land out of cultivation and put in another drive way?

5. Can a person have adverse possession to another person's land if they never paid any taxes on the land?

6. Do a land owner suppose to suffer a financial loss. because another person say they don't want to be in a position to have to deal with the land owner?

7. Does a person have to use another owner's entire property for the required number of years, without their consent and pay the property taxes for that parcel to claim adverse possession?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
TABLE OF AUTHORITIES.....	iv
OPINIONS BELOW	2
JURISDICTION	2
STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT	3
CONCLUSION	4
APPENDIX A Order of the Fourth Circuit Court of Appeals on Petition for Rehearing with Suggestion for Rehearing In Banc Filed October 26, 1995	A-1
APPENDIX B Order of the District Court Filed April 4, 1995	A-2
APPENDIX C Order of the Supreme Court of North Carolina (Six-B District) Filed February 9, 1995	A-4
APPENDIX D Opinion of the Fourth Circuit Court of Appeals Decided September 11, 1995...	A-6

APPENDIX E
Order of the North Carolina Court of Appeals Entered November 14, 1994... A-8

APPENDIX F
Judgment of the Northampton County General Court of Justice Filed September 2, 1994 ..... A-10

APPENDIX G
Recommendation of the United States District Court Magistrate Filed March 23, 1995..... A-12

TABLE OF AUTHORITIES

Page

A. OTHER:

Harris v. Walden, 314 North Carolina 284 ..

No.

In The

Supreme Court of the United States

October Term, 1995

Chester J. Deloatch, Sr.,

Petitioner Pro Se,

vs.

Muzie Hughes,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

PETITION FOR WRIT OF CERTIORARI

Petitioner Pro Se Chester J. Deloatch, Sr. respectfully petitions for a writ of certiorari to review the opinion of the United States Court of Appeals for the Fourth Circuit filed October 26, 1995.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit denying rehearing and denying the suggestion for rehearing in banc is unpublished.(Appendix A). The April 4, 1995 Order of the United States District Court for the Eastern District of North Carolina is unpublished. (Appendix B). The recommendation of the United States District Court Magistrate is unpublished.(Appendix G). The February 9, 1995 Order of the Supreme Court of North Carolina is reported at West Publishing Co. and Mead Data Corporation.(Appendix C).

JURISDICTION

The opinion of the United States Court of Appeals was decided September 11, 1995. (Appendix D). The November 14, 1994 Order of the North Carolina Court of Appeals. (Appendix E). The judgment of the General Court of Justice of Northampton County, North Carolina was filed September 2, 1994. (Appendix F).

STATUTORY PROVISIONS INVOLVED

I had to pay $1,014.19 in back taxes on this farm; three years back to keep the Northampton County Tax Department from putting my farm up for sale. I bought the farm in 1988, I had to pay the taxes back to 1985. Mrs. Hughes got permission to have a court ordered survey, which I objected to. I have appealed the case all of the way through the State Courts and moved the case to the Federal Courts. My constitutional, property and civil rights have been abused. I was forced to pay for the court ordered survey in

the amount of $400.00, the court cost in the amount of $25.00, the sheriff fee in the amount of $20.00 on October 11, 1995. I paid the $445.00 by check number 2391. I put on the check paid under duress, case now in U.S. Court of Appeals, case number 91-CVS-304 Deloatch vs. Hughes, Paid in Full. Mrs. Hughes committed perjury, saying she never claimed an half acre land in my field. I have an affidavit by Mr. James "Tom" Wesley stating that Mrs. Hughes said that she owned an half acre of land in my field, and that she didn't want to discuss it any more, because her children was going to back her up, she said, Thomasine is a doctor, Judy is a lawyer and Zeno is a realtor. Which I think was uncalled for her to say.

STATEMENT OF THE CASE

I am asking that Mrs. Hughes not be granted adverse possession, to any part of my land; because she has not met the elements of adverse possession. I am asking that Mrs. Hughes correct all of the wrong that she has caused me.

I received a letter from Mrs. Hughes' attorney, Mr. Bradley A. Elliott, dated April 18, 1995 stating that he would not be representing Mrs. Hughes in Federal Court. Attorney Elliott also stated in the April 18, 1995 letter, Mrs. Hughes and I will stand on the final decisions of the North Carolina court system and leave you to wander on your own.

REASONS FOR GRANTING THE PETITION

The elements of adverse possessions were not met. I offered Mrs. Muzie Hughes an "easement". I offered Mrs. Hughes the right

to buy all of the land she is trying to block me out of. Mrs. Hughes offered $624.00 up to $1,000.00 for part of the land I offered to sell. I wouldn't sell part without selling the land in the back. Therefore, Mrs. Hughes and her attorney decided to claim adverse possession.

CONCLUSION

For the foregoing reasons, this Court should grant the Petition and should issue a writ of certiorari to the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

Chester J. Deloatch, Sr.
(Petitioner Pro Se)
P.O. Box 529
Rich Square, N.C. 27869
(919) 539-2147

APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-1843
CA-95-16-2-BO

CHESTER J. DELOATCH, SR.
Plaintiff - Appellant

v.

MUZIE HUGHES
Defendant - Appellee

[Filed October 26, 1995]

On Petition for Rehearing with Suggestion for Rehearing In Banc

---

The appellant's petition for rehearing and suggestion for rehearing in banc were submitted to this Court. As no member of this Court or the panel requested a poll on the suggestion for rehearing in banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and suggestion for rehearing in banc are denied.

For the Court,

/s/ Bert M. Montague

CLERK

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:95-CV-16-BO

CHESTER J. DELOATCH, SR.,
Plaintiff

v.

MUZIE HUGHES,
Defendant.

ORDER

[Filed: April 4, 1995]

This matter is before the undersigned on recommendation of a United States Magistrate Judge that the action be dismissed for lack of subject matter jurisdiction. The recommendation is entirely correct. This is a suit between two North Carolina citizens involving a land dispute. There is no subject matter jurisdiction on any basis upon which this court could entertain the action or proceed. The court dismisses this case for lack of subject matter jurisdiction.

This 31st day of March, 1995.

TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

I certify the foregoing to
be a true and correct copy
of the original.
David W. Daniel, Clerk
United States District Court
Eastern District of North
Carolina

By: Rebecca Bowen
Deputy Clerk

APPENDIX C

SUPREME COURT OF NORTH CAROLINA
SIX-B DISTRICT

No. 602P94

CHESTER J. DELOATCH, SR.,
v.
MUZIE HUGHES ET AL.

From NC Court of Appeals
(P94-469)
From Northampton
(91CVS304)

****

ORDER

Upon consideration of the petition filed by Plaintiff (Pro Se) in this matter for discretionary review of the order of the North Carolina Court of Appeals pursuant to G.S. 7A-31, the following order was entered and is hereby certified to the North Carolina Court of Appeals.

"Denied by order of the Court in conference, this the 9th day of February 1995.

s/ Orr, J.
For the Court"

Witness my hand and the seal of the Supreme Court of North Carolina, this the 10th day of February 1995.

Christie Spier Cameron
Clerk, Supreme Court of
North Carolina

Marvea J. Francis
Assistant Clerk

Copy to:
North Carolina Court of Appeals
Mr. Chester J. Deloatch, Sr., Pro Se
Mr. Bradley A. Elliott, Attorney at Law, For Hughes
Mr. Ralph A. White, Appellate Court Reporter
West Publishing Company
Mead Data Corporation
Shephard's McGraw-Hill

APPENDIX D

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-1843

CHESTER J. DELOATCH, SR.,
Plaintiff - Appellant

versus

MUZIE HUGHES,
Defendant - Appellee

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Terrence W. Boyle, District Judge. (CA-95-16-2-BO)

Submitted: August 24, 1995
Decided: September 11, 1995

Before WIDENER, HALL, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Chester J. Deloatch, Sr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See I.O.P. 36.5 and 36.6.

PER CURIAM:

Appellant appeals from the district court's order dismissing his complaint for lack of subject matter jurisdiction. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Deloatch v. Hughes, No. CA-95-16-2-BO (E.D.N.C. Apr. 4, 1995). We deny Appellant's motion for appointment of counsel and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process. Further, because this appeal has now been decided, Appellant's motion for a stay of execution is moot and is denied for that reason.

AFFIRMED

APPENDIX E

NORTH CAROLINA COURT OF APPEALS
From Northampton(91CVS304)

No. COAP94-469

CHESTER J. DELOATCH, SR.

V

MUZIE HUGHES

ORDER

[Filed November 14, 1994]

The following order was entered:

The motion filed in this cause on the 31st day of October 1994 designated "(Untitled)" is dismissed.

By order of the Court this the 14th day of November 1994.

John H. Connell
Clerk of North Carolina
Court of Appeals

CSC Orig
Mr. Chester J. Deloatch, Sr.
Mr. Bradley A. Elliott

A True Copy

CLERK OF THE COURT OF APPEALS
OF NORTH CAROLINA

Kathy Taylor
Deputy Clerk

14 November 1994

APPENDIX F

STATE OF NORTH CAROLINA IN THE
GENERAL COURT OF JUSTICE
NORTHAMPTON COUNTY
SUPERIOR COURT DIVISION

FILE NO. 91-CVS-304

CHESTER J. DELOATCH, SR.,
Plaintiff,

v.

MUZIE HUGHES,
Defendant.

JUDGMENT

[Filed September 2, 1994]

THIS CAUSE coming on to be heard and being heard before the undersigned Cy A. Grant, Sr., Senior Resident Superior Court Judge Presiding, at the August 29, 1994, term of Northampton Civil Superior Court, and a jury being duly empaneled and the jury having answered the issue as shown in the record,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant, Muzie Hughes, is the owner by adverse possession of that certain tract or parcel of land lying and being situate in Seaboard Township, Northampton County, North Carolina, containing 0.124 acre and being more particularly shown and designated as Parcel 3A on that certain "Topography Map For Court Ordered Survey of Area Used By Muzie Hughes", made by Linwood L. Rawls, R.L.S., under date of October 19, 1993, a copy of which is filed

in the court file of this civil action.

It is further ordered that the costs of court, including the sum of $400.00 for the court ordered survey which was advanced by the defendant, be taxed to the plaintiff.

This is the 2nd day of September, 1994.

_____

Cy A. Grant, Sr.,
Senior Resident Superior
Court Judge Presiding

APPENDIX G

APPEAL CLOSED

U.S. District Court
Eastern District of North Carolina (Elizab. City)

CIVIL DOCKET FOR CASE #: 95-CV-16

Filed: 03/06/95

Deloatch v. Hughes
Assigned to: Judge Terrence W. Boyle
Demand: $0,000
Nature of Suit: 290
Lead Docket: None
Jurisdiction: Federal Question
Dkt # in Northampton Sup. Ct.: is 91 CVS 304

Cause: 28:1331(a)
Fed. Question: Real Property

CHESTER J. DELOATCH, SR.
plaintiff

v.

MUZIE HUGHES
defendant

Chester J. Deloatch, Sr
[COR LD NTC] [PRO SE]
P. O. Box 529
Rich Square, NC 27869
919-539-2147

Proceedings include all events. 2:95cv16		Deloatch v. Hughes	APPEAL CLOSED
3/6/95	1	Complaint filed seeking reversal of state court decision (bb) [Entry date 03/07/95]	
3/6/95	--	Summons(es) issued for Muzie Hughes (bb) [Entry date 03/07/95]	
3/7/95	--	Case submitted to:USMJ McCotter for recommendation on plaintiff's requested relief (bb)	
3/15/95	2	Affidavit by Chester J. Deloatch, Sr. (bb) [Entry date 03/16/95]	
3/23/95	3	Memorandum and Recommendations of Magistrate McCotter and Notice recommending dismissal for lack of subject matter jurisdiction; OB Ref: BO-1, p. 192; Objections to M and R due by 4/10/95 (bb)	
3/28/95	4	Objections by Chester J. Deloatch, Sr. to [3-1] memorandum & recommendations (bb)	
3/28/95	--	Case submitted to: Judge Boyle for ruling on [3-1] memorandum & recommendation (bb)	
4/4/95	5	Order affirming the recommendation of USMag. Judge McCotter that this action be	

		dimissed for lack of subject matter jurisdiction; signed by Judge Boyle. OB Ref: BO-1, p. 207; served (bb)
4/4/95	6	Judgment for Muzie Hughes against Chester J. Deloatch Sr there is no subject matter jurisdiction on any basis upon which this court could entertain this action or proceed and this case is hereby dismissed; signed by Rebecca Bowen, Dep. Clerk. OB Ref: BO-1, p. 208; served (bb)
4/4/95	--	Case closed non-permanent (bb) [Entry date 04/05/95]
4/12/95	7	Notice of appeal by Chester J. Deloatch Sr. (Appealing order of 4/4/95) Appeal record due on 5/22/95. lc: 4th Circuit Court of Appeals, lc: Judge Boyle, lc: counsel of record. (ag) [Entry date 04/13/95]
4/12/95	--	USCA appeal fees received $ 105.00 Receipt #: 30147. (ag) [Entry date 04/13/95]
4/13/95	--	Notice of Appellate Action to USCA and counsel re: [7-1] appeal by Chester J Deloatch, Sr. Appeal Pkg. mailed consisting of Dkting Statement Transm. Sheet and Index (ag)
4/13/95	--	Transmitted record on appeal to U.S. Court of Appeals:

		[7-1] appeal by Chester J. Deloatch Sr. lc: Judge Boyle lc: counsel of record (ag)
4/13/95	--	Volume I - pleadings 1-7 forwarded 4th Circuit Court of Appeals. (ag)

Proceedings include all events. APPEAL
2:95cv16 Deloatch v. Hughes CLOSED